LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS

54111 BROUGHTON ROAD

MACOMB, MI 48042

PRESENT: EDWARD GALLAGHER, CHAIRMAN

DEAN AUSILIO, VICE CHAIRMAN MICHAEL D. KOEHS, SECRETARY CHARLES OLIVER, MEMBER

JOA PENZIEN, MEMBER ARNOLD THOEL, MEMBER DEBORAH ZOLNOSKI, MEMBER

ABSENT: NONE

ALSO PRESENT: Lawrence Dloski, Legal Counsel

Jerome Schmeiser, Planning Consultant

(Additional attendance on file at the Clerk's Office)

Chairman GALLAGHER called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was recited.

ROLL CALL

1. Clerk KOEHS called the roll and the entire Commission was present.

APPROVAL OF THE AGENDA

2. The agenda was reviewed and any additions, corrections or deletions were discussed and made.

MOTION by OLIVER seconded by THOEL to approve the agenda as presented.

MOTION carried.

APPROVAL OF THE PREVIOUS MEETING MINUTES

3. The minutes of the previous meeting held on October 3, 2006 were reviewed and the motion regarding item four (4) was corrected to include extending the wall on the east side northward to within fifteen (15) feet of 23 Mile Road.

MOTION by PENZIEN seconded by OLIVER to approve the minutes of the meeting of October 3, 2006 as amended.

MOTION carried.

AGENDA ITEMS

4. **Ground Sign and Site Plan for Funeral Home**; Located on the East side of Romeo Plank Road, approximately ¼ mile South of 21 Mile Road; Section 33; Mark W. Ellena, Petitioner. Permanent parcel No. 08-33-102-003

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of approval.

Mr. Peter Snyder, representing the petitioner, was also present to answer any questions which the commission might have.

MOTION by KOEHS seconded by THOEL to approve the Ground Sign and Site Plan for Lee-Ellena Funeral Home; Located on the East side of Romeo Plank Road, approximately ¼ mile South of 21 Mile Road; Section 33; Permanent parcel No. 08-33-102-003, with the following conditions:

- 1. The parking areas to be properly graded, drained and paved within one (1) year's time to the satisfaction of the Township Engineer. Posts to be installed in parking areas to protect exit doors, gas meters, etc.
- 2. The petitioner to comply with all pertinent codes and ordinances, and guarantee that dimensions, acreage figures, and recorded easements in connection with this site plan are true and accurate as they provide the basis for this recommendation. The approval is given with the understanding that any structures such as signs, walls, tanks, etc., planned for the site will not be located in any utility easement or properties set aside for drains, sewers or water facilities unless an easement agreement is signed with the governing authority controlling the easement or property.
- 3. The front yard area and the areas between street line and sidewalks to be planted with grass and trees, and maintained. No stones or loose materials are permitted in the areas between the sidewalk and street; however a greenbelt with a three (3) foot cement strip along the curb or street line is permitted.
- 4. The curb radii, curb cuts, including their location, deceleration lanes, by pass lanes and other geometrics and designs, are subject to approval by the County Road Commission, Michigan Department of Transportation, and the Township Engineer.
- 5. Sidewalks to be provided to the satisfaction of the Township Engineer.

- 6. Light fixtures or light standards must have deflectors or shields for positive cut-off of direct beams of light, or glare from bulbs or fixture lenses, shining or casting light onto adjacent properties. All fixtures under canopies must be installed with flat lenses as indicated by the industry.
- 7. That the trash or dumpster pad area be enclosed on three sides with a six (6) foot wall and be secured with screened gates. All walls to be constructed with a masonry pointed cap, the angle of the pointed cap to be 45 degrees. If additional dumpsters are to be located on the site, each must be enclosed in like manner.
- 8. An acceptable method of surety, such as a corporate surety bond or cash bond, in an amount approved by the Township Engineer, be posted, assuring the Township the property will be developed within two (2) years in accordance with the plan and elevations. If not developed with two (2) years from date of site plan approval, the petitioner will have to appear before the Planning Commission for consideration of an extension of the two year time period. The bond must be posted prior to receiving construction permits from the Township Water/Sewer Department.
- 9. The petitioner/applicant may request the release of the site plan bond when the site has been completed in accordance with all conditions made part of this approval and contained herein. The request for release must be in writing and accompanied by 2 copies of the "As Built Plans". The "As Built Plan" will be compared with the stamped approved Site Plan Drawing to help determine the readiness for release of said bond.
- 10. That handicap parking be provided per the requirements of the State and the ADA (American Disabilities Act).
- 11. That all signs be designated on the site plan and meet the Township requirements.
- 12. That the petitioner meet with the Michigan Department of Environmental Quality (MDEQ) regarding floodplains and/or wetlands to determine any building limitations.
- 13. MDEQ- That specific conditions and approvals regarding changes to the 100 year flood plain be done so with the understanding that the petitioner shall seek and obtain map revisions or amendments to

reflect the lower amendment on the flood plain map as prepared by FEMA, prior to the issuance of any building permits.

- 14. That any required walls or greenbelts be constructed/installed prior to the issuance of a Certificate of Occupancy. All walls to be constructed with a masonry pointed cap, the angle of the point to be 45 degrees. All walls must be constructed on a continuous foundation. The "hung" type wall, that is with panels on channeled pillars, shall not be allowed.
- 15. That the petitioner provide proper drainage (storm and sanitary) and a proper water supply in accordance with the standards of the Township Water and Sewer Department and the County Drain office.
- 16. That the petitioner properly name any proposed streets or private drives that may be due on the site and coordinate said names with the Macomb Township Supervisor's Office. Addresses are assigned after site plan approval. The petitioner must coordinate said street names with the Macomb Township Supervisor's office and submit (2) plans on 11" x 17" paper.
- 17. That any future splitting and/or division of any portion of the property or additions to the property, approved in this plan, be reconsidered by the Assessor and Planning Commission. That all splits be approved by the Tax Assessor.
- 18. That the case of structures in commercial zones that roof mounted appliances and fixtures shall be effectively screened on all sides by the roof line so as not to be visible from off the site.
- 19. That in the case of commercial zones that outdoor storage and display of merchandise is prohibited.
- 20. That all requirements of the Zoning Ordinance be met.
- 21. Since the matter being considered is a revised site plan, then all conditions of the earlier approval, that may apply to other features of the plan not being considered for the current revision and whether or not they are noted on the plan herein presented, are to remain in full force and effect.
- 22. That the petitioner be aware that a Certificate of Zoning Compliance and a Certificate of Occupancy must be obtained prior to the occupation of the proposed building.

- That the site plan include a site illumination plan containing a detailed profile of each classification of lighting fixture. Further, that the plan provide that no lights or glare from lights will shine into the abutting residential areas.
- 24. That the petitioner understands that if the property(ies) involved in this application are not yet split or combined into a single parcel, that an application for split/combination must be submitted and approved by the Assessor's Office. The petitioner must also understand that all codes and ordinances relating to said split/combination must be adhered to including any variances requested or any other actions involving Macomb Township. It is also noted that delays may be necessary in the split/combination procedure because of subsequent public hearings involving variance requests.

In the case of a Site Plan application, an application for said split/combination must be reviewed and approved by the Assessor's Office prior to the issuance of Building Permits. In the case of a Site Condominium or Subdivision Plat application, an application for said split/combination must be approved by the Assessor's Office before the petitioner may submit an application for their next approval step as prescribed by the Macomb Township Land Division Ordinance #17.

This approval does not provide any assurance or guarantee that any required split or split/combination that was not in place prior to this approval will be approved by any other Township body or other governmental unit.

- 25. That the notations on the landscape plan which indicate pebble stone, cobblestone or other loose materials be removed from the plan and that it be indicated that all stone or other loose materials will be a cobblestone with a measurement of 3" to 8" in size.
- 26. The luminaries be reduced in height from 20 feet to 15 feet.
- 27. Landscape screening material must be installed on the south property line from the wall, west to Romeo Plank Road, to screen the house from the parking lot traffic.

MOTION carried.

5. **Tentative Preliminary Plat; River Pointe Subdivision**; 32 Lots; Located on the North side of 25 Mile Road, approximately 1,500° East of Hayes Road; Section 6; Eskelinen Development, Petitioner. Permanent Parcel No. 08-06-300-036.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of approval.

Mr. Mark Simpson, representing the petitioner, was also present to answer any questions which the commission might have.

MOTION by OLIVER seconded by ZOLNOSKI to approve the Tentative Preliminary Plat; River Pointe Subdivision; 32 Lots; Located on the North side of 25 Mile Road, approximately 1,500' East of Hayes Road; Section 6; Permanent Parcel No. 08-06-300-036, with the following conditions:

- 1. The petitioner submits evidence to the satisfaction of the Township Engineer that required approvals have been secured from the following agencies in compliance with Sections 17-87 to 17-90 of Chapter 17 of Macomb Township Code of Ordinances, Land Division Regulations:
 - a. Macomb County Road Commission
 - b. Office of Public Works Commission of Macomb County
 - c. Macomb County Health Department
 - d. Macomb County Planning Commission
 - e. Michigan Department of Environmental Quality
 - f. All public utility companies affected.
 - g. That a by-pass lane(s) be developed on the abutting major road(s) subject to the approval of the Macomb County Road Commission and the Township Engineer. Also, that any connecting sidewalk tying the plat to any public street be installed by the petitioner.
- 2. The Township Engineer approves all engineering plans for the computed plat.
- 3. That any detention area meet the requirements of the Township Engineers and any Special Assessment District (SAD) be approved by the Township Board.
- 4. Further, that the Township Engineer be satisfied that those conditions imposed as part of the tentative plat approval shall be incorporated into the Final Preliminary Plat.
- 5. That all public street drain crossings within the boundaries of the Tentative Preliminary Plat shall be provided with public sidewalks on both sides of the street and installed in accordance with 17-145 (10) of the Macomb Township Code.
- 6. That all lots within the Tentative Preliminary Plat meet the requirements of the Township Zoning Ordinances.

- 7. Flood Plain Map Amendments and or Requirements. Please be advised that it is the responsibility of the applicant to seek and obtain any map revisions or amendments to the flood plain map as prepared by FEMA, through the Michigan Department of Environmental Quality (MDEQ). Further, MDEQ must review and approve any amendments or map revisions that reflect the lower amendment on the flood plain map prior to the issuance of any building permits.
- 8. That the petitioner comply with all pertinent codes and ordinances, and guarantee that dimensions, acreage, figures, and recorded easements in connection with this plat are true and accurate as they provide the basis for this recommendation.
- 9. That the "20 ft. common area for landscaping purposes" be developed in accordance with the provisions of the Land Division Ordinance of Macomb Township. A plan for the area must be prepared by a registered landscape architect and include a layout of plants proposed for the area, an irrigation system including sprinklers, mulching materials for planting beds and details for the installation of all features of the plan. Also to be included is a cost estimate for the development of the area. Said cost list to be prepared by the registered landscape architect who prepared the plan.
- 10. That a bond in an amount determined by the Township Consulting Engineer be posted assuring the development of the 'Landscape Easement.' The bond must be posted with the Macomb Township Treasurer prior to the acceptance of the application for Final Preliminary Plat.
- 11. That the tentative preliminary approval expires one year from the date of Township Board approval. It is not the responsibility of Macomb Township to notify the petitioner prior to the expiration date of this approval. Please make note of the above date. Any application for extension must be received by this office prior to the expiration date.
- 12. All street names are cleared by the Township Supervisor for purposes of continuity prior to preparation of the final plat. That the petitioner submits two (2) copies of the plat to the Supervisors office for addressing. Addresses will be assigned after Final Preliminary Plat approval by the Township Board.
- 13. That the petitioner submits two (2) copies of the restrictive covenants that will be recorded with the plat. Said covenants must include an article to provide the perpetual maintenance of all limited common that may include regulated wetlands, landscape areas, and floodplains. The covenants

must be submitted with the application for Final Preliminary Plat.

- 14. If a 'phasing plan' has not been submitted it is assumed that this subdivision will be developed in one phase. Please be advised that any revisions to the phasing plan for this plat must be reviewed and approved by the Planning Commission and Township Board and incorporated into the Tentative Preliminary Plat as a Revised Tentative Preliminary Plat.
- 15. That the petitioner understands that if the property(ies) involved in this application are not yet split or combined into a single parcel, that an application for split/combination must be submitted and approved by the Assessor's Office. The petitioner must also understand that all codes and ordinances relating to said split/combination must be adhered to including any variances requested or any other actions involving Macomb Township. It is also noted that delays may be necessary in the split/combination procedure because of subsequent public hearings involving variance requests.

In the case of a Site Plan application, an application for said split/combination must be reviewed and approved by the Assessor's Office prior to the issuance of Building Permits. In the case of a Site Condominium or Subdivision Plat application, an application for said split/combination must be approved by the Assessor's Office before the petitioner may submit an application for their next approval step as prescribed by the Macomb Township Land Division Ordinance #17.

This conditional approval does not provide any assurance or guarantee that any required split or split/combination that was not in place prior to this approval will be approved by any other Township body or other governmental unit.

- 16. That the structures located on proposed lot 32 must be removed to the satisfaction of the Township Building Division prior to the acceptance of the application for Final Preliminary Plat.
- 17. With respect to lot 33; the existing buildings must either be removed or a variance received from the Zoning Board of Appeals prior to receipt of the application for Final Preliminary Plat. Further, that all access to lot 33 must be provided from Clinton Avenue. There shall be no access from lot 33 to 25 Mile Road upon completion of the 20 foot landscape easement.
- 18. That the footprint sketches for lots 5 and 6 be properly dimensioned showing compliance with the zoning ordinance.

MOTION carried.

6. **Special Land Use; Shield's Pizza;** Located on the Southeast corner of 23 Mile Road and Romeo Plank Roads; Section 20; Anthony DiGirolamo, Petitioner. Permanent Parcel No. 08-20-200-046.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of denial.

No representative for the petitioner was present.

(Note: there was a 15 minute recess while Commission Member Joa Penzien was driven home.)

MOTION by KOEHS seconded by OLIVER to deny the request for Special Land Use; Shield's Pizza; Located on the Southeast corner of 23 Mile Road and Romeo Plank Roads; Section 20; Permanent Parcel No. 08-20-200-046 because the proposed use does not comply with the standards set forth in Section 10.2401(B)(5)(a), as follows:

1. The proposed Special Land Use shall be of such location, size and character that it will not be harmonious with the appropriate and orderly development of the surrounding neighborhood.

PLANNER'S COMMENTS. A residential property exists to the immediate south of the subject parcel. The proposed entrance to the restaurant including the carry out area of the center is approximately 60' from the residential property to the south. It is recognized that a wall exists between the two but the location of the restaurant serving alcoholic beverages is in such close proximity to the residential properties that if the request for later hours is approved the activities in the later hours as requested will become more of a nuisance to the adjoining residential neighborhood.

According to the complaints filed by the abutting residential property owners, there have been instances where the noise in the parking lots is extreme at night under the current hours of operation. If the request to extend the hours of operation is granted the potential for increasing nuisances would thus exacerbate the incompatibility between the existing restaurant and the residential uses. The sports bar portion of the restaurant caters to sports enthusiasts who by their nature will tend to be boisterous and create nuisances to the abutting residential uses.

2. The proposed use shall be of such a nature that vehicular and pedestrian traffic shall not be more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow; proximity and

relationship to intersections, adequacy of sight distances; location and access of off-street parking; and provisions for pedestrian traffic, with particular attention paid to minimizing child-vehicle interfacing.

PLANNER'S COMMENTS: The evidence of the complaints against the property show incompatibility by its nature.

3. The proposed use shall be designed, with respect to the location, size, intensity, site layout and periods of operation of any such proposed use, to eliminate any possible nuisance emanating therefrom which might be noxious whether by reason of dust, noise, fumes, vibration, smoke or lights to others..

PLANNER'S COMMENTS: The extended hours of operation as requested to 2:00 a.m. would as noted above exacerbate the incompatibility between the existing restaurant and the residential uses. The noise generated by the patrons leaving at later hour would be an obvious nuisance to adjoining residential properties.

4. The proposed use shall be such that the proposed location and height of buildings or structures, and the location, nature and height of walls, fences and landscaping, will not interfere with or discourage the appropriate development and use of adjacent land and buildings, or unreasonably affect the value of the land and/or buildings.

PLANNER'S COMMENTS: Again as noted above it is the location of the existing structure within such close proximity to the residential use to the south that creates the nuisances and therefore unreasonably affects the value of the land and building.

5. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses with regard to prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township.

PLANNNER'S COMMENTS: Again as noted above it is the location of the existing structure within such close proximity to the residential use to the south that creates the nuisances and therefore unreasonably affects the economic aspects of the adjoining properties to the south. It would appear from a site plan submitted that a better location which would not appear to be injurious to the abutting properties would be in the northern portion of the strip center where it would have a lesser adverse affect on the abutting single family area.

6. The proposed use is necessary for the public convenience at the proposed location.

PLANNER'S COMMENTS: The public convenience is not being served by extending the hours of operation to 2:00 a.m.

7. The proposed use is not so designed, located and planned, and cannot be operated in such a manner that the public health, safety and welfare will be protected.

PLANNER'S COMMENTS: As noted above the location of the use is such close proximity to an existing residential neighborhood creates the nuisances and therefore unreasonably affects the health safety and welfare of the adjoining properties to the south.

8. The proposed use shall not be detrimental or injurious to the neighborhood within which it is to be located, nor shall such use operate as a deterrent to future land uses permitted within said zoning district, and such use shall be in harmony with the general purpose and intent of the Zoning Ordinance.

PLANNER'S COMMENTS: The proposed extension of the hours of operation as requested would be detrimental and injurious to the neighborhood within which it is to be located and would not be in harmony with the general purpose and intent of the Zoning Ordinance.

MOTION carried.

7. Request for Extension of Time; Site Plan and Ground Sign for Community Hope Lutheran Church; Located on the South side of 24 Mile Road, west of Broughton; Section 16; Community of Hope Lutheran Church, Petitioner. Permanent Parcel No. 08-16-200-013.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of approval.

MOTION by AUSILIO seconded by THOEL to approve the request for an Extension of Time for the Site Plan and Ground Sign for Community Hope Lutheran Church; Located on the South side of 24 Mile Road, west of Broughton; Section 16; Permanent Parcel No. 08-16-200-013, for a period of one year to expire on November 1, 2007.

MOTION carried.

8. Revised Landscape Plan; Portofino Villas Subdivision; Located on the west side of Card Road, approximately ½ Mile north of 23 Mile Road; Section 15; Portofino Villas Inc, Petitioner. Permanent Parcel No. 08-15-426-006.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of approval.

Ms. Lisa Carey, representing the petitioner, was also present to answer any questions which the commission might have.

MOTION by KOEHS seconded by THOEL to approve the Revised Landscape Plan; Portofino Villas Subdivision; Located on the west side of Card Road, approximately ½ Mile north of 23 Mile Road; Section 15; Permanent Parcel No. 08-15-426-006 with the following conditions:

- 1. That the plan be redrawn showing compliance with the requirements of the Township including that the wall will be located entirely within the 20' dedicated landscape area and that it will setback no less than 10' from Card Road and 15' from the local street.
- 2. That the temporary ground sign be reviewed under separate application.
- 3. That the Township attorney review and approve the document as submitted by the petitioner regarding the use of the easement.
- 4. That all other conditions and approvals for the landscape plan as approved on November 9, 2005 remain in full force and effect.
- 5. That the plant materials as approved by the Detroit Edison Company be installed as approved on November 9, 2005.

MOTION carried.

9. Rezoning Request; R-1 to O-1; Located on the west side of Romeo Plank Road, 231' north of 25 Mile Road; Section 6; V & G Construction, Petitioner. Permanent Parcel No. 08-06-476-012.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of denial.

Mr. Patrick Maher, representing the petitioner, was also present to answer any questions which the commission might have.

MOTION by AUSILIO seconded by OLIVER to recommend denial to the Township Board of Trustees the Rezoning Request; R-1 to O-1; Located on the west side of Romeo Plank, 231' north of 25 Mile Road; Section 6; V & G Construction. Petitioner. Permanent Parcel No. 08-06-476-012.

MOTION carried.

10. **Rezoning Request; R-1 to O-1**; Located on the northwest corner of 25 Mile Road and Romeo Plank Road; Section 6; V & G. Construction, Petitioner. Permanent Parcel No. 08-06-476-004.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of denial.

Mr. Patrick Maher, representing the petitioner, was also present to answer any questions which the commission might have.

MOTION by OLIVER seconded by AUSILIO to recommend denial to the Township Board of Trustees the Rezoning Request; R-1 to O-1; Located on the northwest corner of 25 Mile Road and Romeo Plank Road; Section 6; V & G. Construction, Petitioner. Permanent Parcel No. 08-06-476-004.

MOTION carried.

11. **Rezoning Request; R-1 to O-1**; Located on the west side of Romeo Plank, 131' north of 25 Mile Road; Section 6; V & G Construction, Petitioner. Permanent Parcel No. 08-06-476-003.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of denial.

Mr. Patrick Maher, representing the petitioner, was also present to answer any questions which the commission might have.

MOTION by AUSILIO seconded by ZOLNOSKI to recommend denial to the Township Board of Trustees the Rezoning Request; R-1 to O-1; Located on the west side of Romeo Plank, 131' north of 25 Mile Road; Section 6; V & G Construction, Petitioner. Permanent Parcel No. 08-06-476-003. MOTION carried.

12. Macomb Township Master Plan Amendments for Commercial Areas

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and indicated that the study of commercial property indicates that there is no need for any further rezoning to commercial property until at least 2010, and that there is ample available commercial property that has not been developed yet. He further stated his recommendation of approval.

MOTION by KOEHS seconded by ZOLNOSKI to forward the recommendation for approval of the amendment to the Board of Trustees.

MOTION carried.

13. **Amendment to Zoning Ordinance**; Section 10.0312 under general provisions to provide for exception to yard and lot area requirements; Macomb Township, Petitioner.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and indicated that this will allow for a slight increase in the amount of linear footage that can be extended into a setback area. He further stated his recommendation of approval.

MOTION by AUSILIO seconded by THOEL to recommend approval of the proposed amendment to the Zoning Ordinance, Section 10.0312, as presented.

MOTION carried.

14. **Amendment to Zoning Ordinance**; add paragraphs regarding: Wireless telecommunications Facility; Telecommunication Structure and Telecommunication Tower; Macomb Township, Petitioner.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this item and stated his recommendation of approval because this would provide a section that is currently not addressed in the Zoning Ordinance.

MOTION by KOEHS seconded by GALLAGHER to recommend approval of the proposed amendment to the Zoning Ordinance as presented.

MOTION carried.

15. Discussion on re-scheduling the November 7, and November 21 2006 Planning Commission meeting to November 6, and November 20 2006, due to the upcoming general election and Thanksgiving.

MOTION by AUSILIO seconded by THOEL to move the meeting of November 7, 2006 to November 6, 2006; and the meeting of November 21, 2006 to November 20, 2006.

MOTION carried.

16. Motion to receive and file all correspondence in connection with this agenda.

MOTION by OLIVER seconded by KOEHS to receive and file all of the correspondence received in connection with this agenda.

MOTION carried.

PLANNING CONSULTANTS COMMENTS - NONE

PLANNING COMMISSION COMMENTS - NONE

ADJOURNMENT

MOTION by KOEHS seconded by OLIVER to adjourn the meeting at 9:10 p.m.

MOTION carried.

Respectfully submitted,

Edward Gallagher, Chairman

Michael D. Koehs, CMC Macomb Township Clerk Planning Commission Secretary